



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

**MAR 2 2018**

Reply to: OCE-101

**FOR SETTLEMENT PURPOSES ONLY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. Robert Code  
Registered Agent: Newco, Inc., d/b/a  
Cascade Columbia Distribution Company  
6900 Fox Avenue South  
Seattle, Washington 98108

Re: Stop Sale, Use, or Removal Order for Misbranded Pesticides and Notice of Intent to File  
Administrative Complaint for Violations of the Federal Insecticide, Fungicide, and Rodenticide  
Act and Opportunity to Confer Prior to Filing

Docket No. FIFRA-10-2018-0268

Dear Mr. Code:

This letter provides Newco, Inc., d/b/a Cascade Columbia Distribution Company notice that the U.S. Environmental Protection Agency (EPA), Region 10 has issued a Stop Sale, Use, or Removal Order ("Order") prohibiting the distribution, sale, or use of the misbranded pesticide product "Sodium Hypochlorite Solution 12.5%" (EPA Reg. No. 10897-26-73015). In addition, EPA is prepared to initiate a penalty action for the unlawful distribution of the misbranded pesticide product and is offering you the opportunity to discuss this matter with EPA prior to the filing of a Complaint.

The Order is issued under the authority of Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a). The enclosed Order is effective immediately upon receipt and pertains to all such products under the control, ownership, or custody of Cascade Columbia Distribution Company. EPA issued the Order and is prepared to initiate a penalty action because EPA has evidence that shows the product listed above is in violation of FIFRA. EPA discovered the violations as a result of two inspections. The Oregon Department of Agriculture conducted an inspection of your 14200 SW Tualatin-Sherwood Road, Sherwood, Oregon establishment, on February 10, 2017, and EPA Region 10 conducted an inspection of your 6900 Fox Avenue S, Seattle, Washington establishment on September 13, 2017.

EPA's review of labels collected during the inspections found that the label for Sodium Hypochlorite Solution 12.5% did not match the EPA Accepted Label for the product. EPA found deficiencies in the sections of the label regarding Hazards to Humans and Domestic Animals, Physical and Chemical Hazards, and Storage and Disposal. These deficiencies render the product misbranded at the time of

distribution in accordance with Sections 2(q)(1)(F) and (G) of FIFRA, 7 U.S.C. § 136(q)(1)(F) and (G). In accordance with Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide that is misbranded.

### **Compliance with the Order**

Pursuant to Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), Cascade Columbia Distribution Company may not sell, offer to sell, use, distribute or remove the misbranded pesticide product Sodium Hypochlorite Solution 12.5% in the United States. Any violation of the Order may result in the imposition of additional civil or criminal penalties as prescribed by Section 14 of FIFRA, 7 U.S.C. § 136l. The issuance of this Order does not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters of unlawful acts not specified in this Order.

In accordance with the enclosed Order, within 30 days of receipt of this letter, please provide a written response describing the steps Cascade Columbia Distribution Company will take to comply with FIFRA to:

Andrew Landry  
U.S. EPA Region 10  
1200 Sixth Avenue, Suite 900, OCE-101  
Seattle, Washington 98101  
Landry.andrew@epa.gov

Mr. Landry may be reached by telephone at (206) 553-1504. Questions from legal counsel should be directed to Brett Dugan, Office of Regional Counsel, at (206) 553-8562 or Dugan.Brett@epa.gov.

### **Penalty Action for Violations of FIFRA**

Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes EPA to assess administrative penalties up to the statutory maximum for each violation of FIFRA. EPA determines the amount of penalty it will seek in FIFRA penalty actions using the factors in Section 14(a) of FIFRA, 7 U.S.C. § 136l(a); the *Federal Civil Penalties Inflation Adjustment Act of 1990* as amended in 2015; 40 C.F.R. Part 19; and the *FIFRA Enforcement Response Policy* (ERP), available at <http://www2.epa.gov/sites/production/files/documents/fifra-erp1209.pdf>. EPA has determined that an appropriate penalty to settle the violations is \$208,000. Note that EPA is seeking penalties for past distributions of these misbranded products.

A Summary of the Alleged Violations and Proposed Penalty, which provides information about EPA's allegations in this matter as well as an explanation of EPA's proposed penalty, is enclosed along with a copy of the ERP. EPA's *Small Business Resources Information Sheet*, which provides information on compliance assistance that may be helpful to you, is also enclosed.

In appropriate circumstances, EPA may reduce the proposed penalty to reflect your inability to pay the proposed penalty in full. EPA may reduce the penalty or agree to a payment plan if you demonstrate financial hardship through records such as tax returns and income statements. If you anticipate claiming an inability to pay the proposed penalty, contact Brett Dugan at the number below to discuss the information requested in the enclosed "Corporation Ability to Pay Initial Information Request."

In general, EPA favors prefiling discussions regarding proposed penalty actions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we are able to reach a settlement of EPA's penalty claims, we would resolve this penalty action with an administrative Consent Agreement and a Final Order, and EPA would not file a Complaint. Once a Consent Agreement and a Final Order is signed by all parties, EPA generally issues a press release announcing the settlement.

If Cascade Columbia Distribution Company and EPA do not reach a settlement on EPA's penalty claims **within 90 days of this notice**, EPA will file an administrative Complaint, and the case will be assigned to an Administrative Law Judge. EPA reserves the right to seek the maximum allowable penalty in litigation of this case if Cascade Columbia Distribution Company and EPA fail to reach a settlement in the time period allotted.

To reach settlement on EPA's penalty claims within 90 days, we will need to begin prefiling negotiations within 30 days. If you wish to set up an initial meeting to discuss this matter, please contact Brett Dugan in the Office of Regional Counsel at (206) 553-8562 **within 14 days of this notice**. EPA is willing to meet with you at our Seattle office or by conference call. If we do not hear from you within 14 days, EPA will take that as an indication that you do not wish to engage in prefiling negotiations regarding penalties, in which case EPA intends to initiate formal enforcement action seeking a penalty unilaterally.

Thank you for your prompt attention to this important matter.

Sincerely,



Edward J. Kowalski  
Director

Enclosures

1. Stop Sale, Use, or Removal Order (Docket No. FIFRA-10-2018-0268)
2. Summary of Alleged Violations and Proposed Penalty
3. *FIFRA Enforcement Response Policy*
4. January 11, 2018, Memorandum: Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule
5. *Small Business Resources Information Sheet*
6. Corporation Ability to Pay Initial Information Request